



Pennington, Moore, Wilkinson, Bell & Dunbar, P.A.
P.O. Drawer 10095
Tallahassee FL 32302-2095

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JAN 09 2004

In re Application of
Mazlout and Olidi
Application No. 10/601,749
Filed: June 23, 2003
For: CARTON DISPENSING MACHINE

OFFICE OF PETITIONS

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:
: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(b)
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This is in response to the petition under 37 CFR 1.47(b), filed June 23, 2003. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioner.

The petition is dismissed.

Petitioner is given TWO (2) MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on June 23, 2003, with a declaration naming Lazhar Mazlout and Benen Olidi as joint-inventors and signed by Hilmon S. Sorey, Jr., President of Florida Black Business Support Corporation (FBBSC).

In the present petition, petitioner states that diligent effort has been made to contact the inventors for a period of six-months with no success. Petitioner further states that the inventors assigned all of their rights in the invention to the FBBSC and that FBBSC's plans to commercialize this invention have been delayed by their inability to seek patent protection. Petitioner requests that the Office allows FBBSC to proceed with prosecution of this application without the inventors' signatures, pursuant to 37 CFR 1.47(b).

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Petitioner lacks items (2) and (6) as set forth above.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. The declaration does not identify the residences, mailing addresses or countries of citizenship of inventors Mazlout and Olidi. The Office notes that the oath or declaration must identify the country of citizenship, as well as "[t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor. . . ." 37 CFR 1.63(c)(1). Furthermore, it is unclear if the last known address for the inventors set forth in the petition is a location where the inventors customarily receive mail.

To correct the deficiencies, applicants must submit an oath or declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity, the correct mailing address and citizenship of each inventor, and is signed by Mr. Sorey on behalf of the nonsigning inventors.

As to item (6), petitioner should submit a statement from the practitioner or an officer of FBBSC stating that it is necessary to proceed with prosecution of this application without the inventors' signatures to prevent irreparable damage.

Further correspondence with respect to this matter should be addressed as follows **and directed to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

By mail: Commissioner for Patents
 Mail Stop Petitions
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: 2011 South Clark Place
 Customer Window
 Crystal Plaza Two, Lobby, Room 1B03
 Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions